

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 32.3.1401 definitions, and)	AMENDMENT
32.3.1406 testing of exposed equids)	
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. The Department of Livestock proposes to amend the above-stated rules.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on September 14, 2018, to advise us of the nature of the accommodation that you need. Please contact the Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-1929; e-mail: MDOLcomments@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

32.3.1401 DEFINITIONS (1) and (2) remain the same.

(3) "Exposed equids" are equidae that have been in a herd with reactors or have been in contact with a reactor for seven days or more at a distance of less than 200 yards or as determined by the state veterinarian to be otherwise at risk of being exposed via natural or iatrogenic means.

(4) "Official EIA test report forms" are the USDA, APHIS VS form 10-11 or other similar form approved by the USDA and the state veterinarian. A completed form must contain official identification of the equid and must list the owner's name, the address and county of the animal's home premise, the name and address of the authorized individual collecting the test sample, the laboratory name and address, and the individual's name that conducted the test. The EIA test document ~~shall~~ must list one animal only.

(5) "Official identification" of equine tested for EIA is a description of the equine to include the following: age, sex, breed, color, the animal's name, ~~and~~ distinctive markings (e.g., color patterns, ~~brands, tattoos,~~ scars, or blemishes), and other forms of permanent identification (e.g., brands, tattoos, or microchips). In the absence of any distinctive color markings or any form of visible permanent identification (brands, tattoos, or scars) the animal must be identified by showing the location of all hair whorls, vortices or cow licks with an "X" on the illustration provided on an official form. Other forms of identification may be used as they are developed and approved by the state veterinarian.

(6) "Official tests" for EIA ~~shall~~ must include the AGID test, the C-ELISA test, and other EIA tests approved by ~~the~~ USDA ~~or~~ and the state veterinarian and conducted by an approved individual at an approved laboratory.

(7) A "reactor" is an equid that is AGID test positive ~~to an official EIA test~~. It ~~shall~~ must be declared to be infected with EIA and ~~shall~~ must be designated as an EIA reactor.

(8) A "suspect" is an equid that is positive on any official test for EIA. It must be declared an EIA suspect and subject to additional testing pending final classification.

AUTH: 81-2-102, 81-2-104, MCA

IMP: 81-2-102, 81-2-103, 81-2-104, MCA

32.3.1406 TESTING OF EXPOSED EQUIDS (1) EIA exposed equids, as defined by ARM 32.3.1401, ~~shall~~ must be placed under a hold order until the animals have been tested negative to EIA at least ~~45~~ 60 days after the last reactor animal has been removed from the premise. Individual exposed equids may be allowed to move under hold order for specific purposes as approved by the state veterinarian if they have a negative EIA test prior to movement. Such movement ~~shall~~ must not be longer than 15 days.

AUTH: 81-2-102, 81-2-104, MCA

IMP: 81-2-102, 81-2-103, 81-2-104, MCA

REASON (ARM 32.3.1401): The department is proposing changes to definitions in order to better reflect current USDA requirements for testing and management of equine infectious anemia (EIA) and to accommodate an expanding body of scientific knowledge about how the disease is transmitted and the performance of the different official tests.

REASON (ARM 32.3.1406): The department is proposing to update the number of days that must elapse following exposure to an equine infectious anemia (EIA) reactor, before an animal can be cleared through a negative test. This update is necessary to be consistent with USDA standards for conducting an EIA epidemiological investigation and current scientific literature that shows animals may take longer than 45 days to seroconvert and therefore show up positive on an official test.

Authorizing and implementing citations are being updated to accurately reflect sources of rulemaking authority.

4. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to Department of Livestock, 301 N. Roberts St., Room 306, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., September 21, 2018.

5. If persons who are directly affected by the proposed action wish to express their data, views, and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m., September 21, 2018.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be approximately 1,850 persons based on the number of persons in Montana who own horses and reported per capita fees to the Department of Revenue.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State August 14, 2018.